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C O N F I D E N T I A L SECTION 01 OF 03 USUN NEW YORK 000239

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TAGS: PREL PTER UNSC SY LE
SUBJECT: LEBANON TRIBUNAL: MANAGEMENT COMMITTEE DISCUSSES
NEXT STEPS

REF: A. USUN/IO EMAIL (WILCOX/REINEMEYER)--03/13/08
1B. USUN 1138 (2007)
1C. USUN 198
1D. THE HAGUE 237
1E. USUN/IO EMAIL (WILCOX/REINEMEYER)--03/07/08
1F. THE HAGUE 204
1G. USUN 220
1H. USUN 171

Classified By: Carolyn Willson, Minister-Counselor for Legal Affairs,
for reasons 1.4(b) and (d).

11. (C) BEGIN SUMMARY: On March 13 the Management Committee for the Special Tribunal for Lebanon discussed: the appointment of the Registrar, plans to transfer contributions from the UN Trust Fund to a separate Tribunal account, the building that will house the Tribunal, proposals for providing the pension coverage to Tribunal staff that Dutch law requires and other staffing-related matters, and the UN's plans to recruit the Head of the Defence Office. UN Office of Legal Affairs (OLA) Robin Vincent also told the Committee he would present a draft budget to the Committee for the Tribunal's first year and initial start-up costs during the week of April 24 and updated Committee members on the progress that the UN's Special Tribunal Task Force is making.

On the margins of the meeting, OLA updated USUN on contributions to the Tribunal. END SUMMARY.

Appointment of the Tribunal Registrar

12. (SBU) The Secretary-General appointed Robin Vincent (UK) as the Tribunal's Registrar on March 10. Vincent, who has been working as a consultant to the UN Office of Legal Affairs (OLA) and a key member of the OLA Task Force that is working on all aspects of setting up the Tribunal, served from 2002 to 2005 as Registrar of the Special Court for Sierra Leone. He also has served as Deputy Registrar of the International Criminal Tribunal for the Yugoslavia (ICTY) and advised on the establishment of the Extraordinary Chambers in the Courts of Cambodia. Vincent will assume his duties as Registrar on April 24 due to personal commitments he made previously. Specific members of the OLA Task Force have been tasked to ensure that work continues during his absence, including signing documents relating to the future Tribunal building and proposed construction, and Vincent circulated a paper highlighting the division of responsibilities and the status of the OLA Task Force's work relating to the Tribunal (ref A).

Transfer of Funds

13. (SBU) Last December, the main donors to the Tribunal agreed that, after the establishment of the Management Committee, contributions provided to the UN Trust Fund for

the Special Tribunal would be transferred to a separate Tribunal account, which the Management Committee would oversee (ref B). USUN and other Committee members have emphasized that the funds, once transferred, should be subject to strict auditing requirements and oversight (ref C), with several members requesting clarification from the Secretariat on how best to meet those objectives. The UN

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will provide the Committee with a detailed proposal by March 27, discussing whether the Tribunal should adopt the UN financial regulations and rules, with appropriate modifications, or some other approach.

Tribunal Building

14. (SBU) Vincent reported that local representatives of the Management Committee had visited the future Tribunal building twice already (ref D). Two additional visits are planned on March 18 and 19 to allow experts from Germany, France, and the United States to assess the building again. Vincent reported that if the Committee decides upon the construction/refurbishment proposal for the building during the week of March 24 (refs C, E), it would take "an absolute minimum" of four weeks and more likely six weeks (by May 8) before a small advance team led by the Registrar could occupy the building (ref F). UN Legal Counsel Michel expressed concerns about the length of the Committee's deliberations on the building proposals and encouraged the Committee, if it cannot decide on the entire proposal by the week of March 24, to reach decisions on aspects of it so work can begin.

Staffing - Pension Coverage

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15. (SBU) Martin Roberts, who serves as the human resources expert on OLA's Tribunal Task Force, answered Committee members' questions on the proposals for providing Tribunal staff with the pension coverage required by Dutch social security law, particularly the recommendation that the Tribunal join the UN Joint Staff Pension Fund (ref G). Roberts explained that complying with Dutch social security law, as the Headquarters Agreement between the United Nations and the Dutch government requires, would unavoidably increase staff costs by USD 4 million. He also said having the Tribunal join the Joint Staff Pension Fund as opposed to establishing its own pension fund would save costs and help the Tribunal attract experienced investigators from the UNIIC, who are already covered by the Joint Staff Pension Fund. For example, the Organization for the Prohibition of Chemical Weapons, which does not participate in the Joint Staff Pension Fund, has incurred higher costs in providing the necessary coverage through ABN Amro and the underwriting company Van Breda International.

16. (SBU) Roberts said he had discussed the feasibility of having the Tribunal join the Fund with representatives of the Fund recently. The Fund's rules grant automatic membership to specialized agencies of the UN, but other international organizations seeking membership must be evaluated on a case-by-case basis that can take up to one year. (Note: Vincent said the Tribunal's contributions to the Fund could be held in escrow in the meantime but that the Tribunal would need an alternative arrangement if the Fund did not accept the Tribunal's staff. End Note.) Roberts reported that, although they did not provide a final answer, the Fund's representatives said they thought the Fund could analogize the Tribunal to one of the UN's specialized agencies, facilitating the Tribunal's access to the Fund. OLA will also consider the Tribunal's legal status vis a vis the Joint Staff Pension Fund and report to the Management Committee and its next meeting.

Staffing - Staff Regulations and Rules

¶7. (SBU) Roberts also reported that the UN has almost completed the draft Staff Regulations and Rules for the Tribunal.

Staffing - Head of the Defense Office

¶8. (C) The UN plans to begin recruiting for the Head of the Defense Office next week. Vincent explained that the UN recommended that the Secretary-General appoint the Head of the Defense Office at the D-2 level, not only because the Defence Office is the fourth organ of the Tribunal (along with the judges' Chambers, the Registry, and the Prosecutor's Office) but also because of the need to attract a highly qualified individual. Vincent commented that other international tribunals have had difficulty attracting capable heads of their defense offices, which has caused delays and unanticipated expenses for those bodies.

¶9. (SBU) The Committee agreed in principle, subject to a silence procedure that will expire on March 17 at 5 p.m., that the job advertisement should indicate that the Secretary-General will appoint the Head of the Defense Office

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at a level equivalent to the UN's D-1 or D-2 classification, subject to experience. (Note: The gross salary for a D-2 official ranges from USD 138,549 to USD 153,437; the gross salary for a D-1 official ranges from USD 126,565 to USD 147,265. End Note.) Several members noted that the job description the UN had drafted for the position appeared better suited for an appointment at the D-1 level and that similar positions elsewhere had been graded at the level of D-1 and lower but agreed that the selection panel should have the flexibility to appoint a candidate of particularly high caliber and experience at the D-2 level. Committee members also agreed in principle that the grading of the position, like those of other senior staff members of the Tribunal, should be kept under regular review, especially as milestones relating to the completion of the Tribunal's work are achieved. Committee members also agreed the Head of the Defense Office should be selected with input from a panel, much as the judges and the Registrar have been. Unless otherwise instructed by 4 p.m. on March 17, USUN intends to accept the proposal.

Tribunal Budget

¶10. (SBU) Vincent said he would provide the Management Committee with the draft budget for the Tribunal's first year

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and initial start-up during the week of April 24. He reported that he expected the first-year budget to be USD 52 (USD 39 million for program costs, including staff costs, and USD 13 million for installing courtroom technology and otherwise refurbishing the Tribunal building), but that costs could be lower depending on the Committee's decisions on the building package.

Contributions

¶11. (SBU) UN Legal Counsel Michel agreed that the UN would update Committee members on the status of contributions to the Tribunal at the Committee's next meeting. Committee members also pressed Michel for details on how the Secretary-General would determine that he has sufficient

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contributions in hand to finance the establishment of the Tribunal and 12 months of its operations plus pledges equal

to the anticipated expenses of the following 24 months of the Tribunal's operations, as Article 5(2) of the annex to resolution 1757 (2007) stipulates. Michel said he had recommended that the Secretary-General contact donors and potential donors to get a clear understanding of what they intend to pledge for the Tribunal's second and third years. Only after donors advise the Secretary-General that it is their policy to continue to support the Tribunal at the necessary level will the Secretary-General be able to determine that he has received pledges equal to the anticipated expenses of the Tribunal's operations for its second and third years, Michel said.

Role for ICTY

¶12. (C) Vincent reported that OLA and the ICTY were nearing completion of an exchange of letters setting out the terms by which the ICTY will provide short-term assistance to the Tribunal (ref H). Among other things, the ICTY will provide a security team that will be posted on the interior of the Tribunal building. The Tribunal will reimburse the ICTY for all costs associated with the services it will provide.

Next Meeting

¶13. (SBU) The Committee will likely meet on March 27 to make a final decision on the proposed package for refurbishing the Tribunal building and installing security equipment and information technology for the courtroom. USUN also expects the Committee to formalize its decision on the terms of conditions of service for staff and to agree that the Tribunal should join the UN Joint Staff Pension Fund.

KHALILZAD